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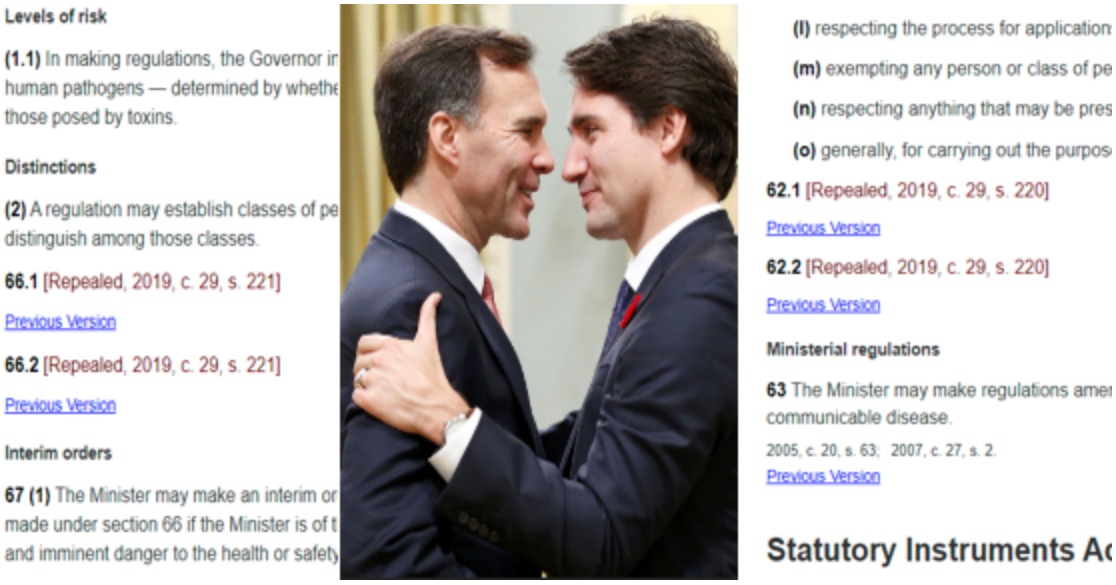
JUNE 14, 2021 BY RONNIE

Oversight For Human Pathogens and Toxins Act, Quarantine Act Removed, Slipped Into Budget Bill


Levels of risk
(1.1) In making regulations, the Governor in
human pathogens — determined by whethe
those posed by toxins.
Distinctions
(2) A regulation may establish classes of pe
distinguish among those classes.
66.1 [Repealed, 2019, c. 29, s. 221]
Previous Version
66.2 [Repealed, 2019, c. 29, s. 221]
Previous Version
Interim orders
67 (1) The Minister may make an interim or
made under section 66 if the Minister is of t
and imminent danger to the health or safety
(l) respecting the process for application
(m) exempting any person or class of pe
(n) respecting anything that may be pres
(o) generally, for carrying out the purpos
62.1 [Repealed, 2019, c. 29, s. 220]
Previous Version
62.2 [Repealed, 2019, c. 29, s. 220]
Previous Version
Ministerial regulations
63 The Minister may make regulations amer
communicable disease.
2005, c. 20, s. 63; 2007, c. 27, s. 2.
Previous Version
Statutory Instruments Ac

There are few things more nefarious than when politicians pass laws to strip your rights away, or undermine democracy. It's even worse when this isn't openly debated, but instead slipped into a larger Bill, and it goes almost unnoticed.

This was done in the Spring of 2019, and pushed through right before an election. Have to wonder why.

In the interest of fairness, Diverge Media broke this story yesterday. A great piece of research, showing that a major regulatory check had been scrapped without any public discussion.

Looking at the timing, it's hard to plausibly believe that the politicians weren't aware that something was going to happen. And if they didn't know, why not speak up now?

Jenny Kwan Vancouver East, BC

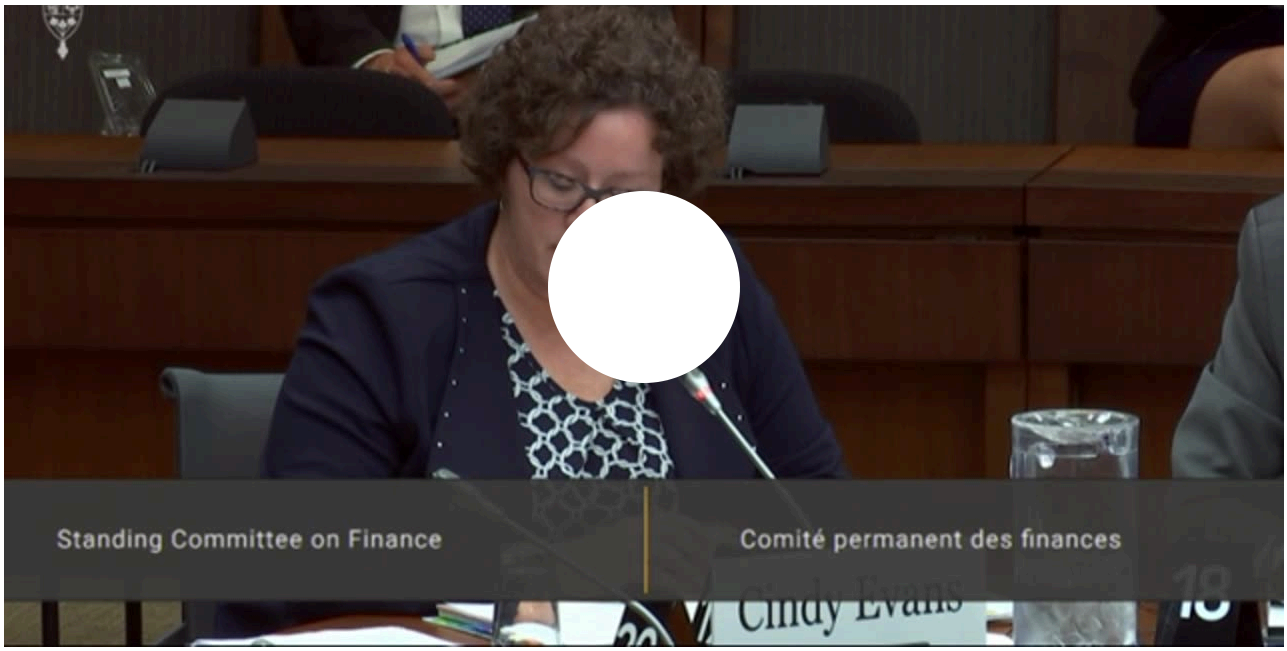
Mr. Speaker, I rise on a point of order. I believe that Bill **C-97** is an omnibus bill as defined under Standing Order 69.1.

My NDP colleagues and I are deeply concerned at the current government's reliance on omnibus bills to ram its priorities through in this place and to attempt to conceal measures from Canadians. We firmly believe that this practice is inherently undemocratic. Therefore, we request that you intervene.

The NDP did make a passing objection, but it seemed to be more in the context of having an omnibus Bill pushed. She listed: "Seventh, subdivision K of division 9 of part 4 repeals provisions of the Quarantine Act. Eighth, subdivision L of division 9 of part 4 repeals provisions of the Human Pathogens and Toxins Act." There were no specific details given as to why these were bad.

This was the public "discussion" on May 6, 2019.
A 90 second speech.

Quarantine Act Amended (Slipped Into Budget Bill) May 2019



> Mr. Chair, I'll speak to subdivision K, as well as subdivision L, given their similarities.
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> The proposed legislative amendment to the Quarantine Act and to the Human Pathogens and Toxins Act would streamline the regulatory process under both acts by ***repealing the requirement for the Minister of Health to table proposed regulations before both Houses of Parliament prior to making new or updated regulations***. This will allow the minister to proceed through the standard Governor in Council process, including prepublication and public consultation in the Canada Gazette. New or updated regulations under both of these acts would continue to comply with the cabinet directive on regulations.
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> The proposed amendments would ***put the Public Health Agency of Canada on level footing with other Canadian regulators*** and we will be more responsive to stakeholder needs for nimble, agile regulations that are kept up to date by facilitating the removal of outdated or ineffective regulations that may not be adequately protecting the public health and safety or may hinder innovation and economic growth.
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> .
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> Our ability to have up-to-date regulations ***will be a benefit for the Canadian public, for the travel and transportation sectors***, and for the biotech and medical resource sectors.

On May 6, 2019, Cindy Evans told a Parliamentary Committee that a provision of Bill C-97 would remove the requirement for legislative checks and balances before issuing orders under the Quarantine Act. Keep in mind, this was a BUDGET Bill, and this was buried in an obscure section.

Government of Canada
Gouvernement du Canada
Justice Laws Website
Family Law
Criminal Justice
Funding
Canada's System of Justice
Laws
Home ➜ Laws Website Home ➜ Consolidated Acts ➜ S.C. 2009, c. 24 - Table of Contents ➜ S.C. 2009, c. 24
Human Pathogens and Toxins Act (S.C. 2009, c. 24)
Full Document: HTML (Accessibility Buttons available) | XML [178 KB] | PDF
Act current to 2021-05-19 and last amended on 2019-06-21. Previous Versi
Constitutional Documents
Consolidation of Constitution Acts, 1867 to 1982
Consolidation of Constitution Acts, 1867 to 1982 (1990 Report version)
Previous Page
Table of Contents
Offences and Punishment (continued)
Directors, officers, etc.
63 If a person other than an individual commits an offence under this Ac

66.1 [Repealed, 2019, c. 29, s. 221]

Previous Version

66.2 [Repealed, 2019, c. 29, s. 221]

Previous Version

Proposed regulations to be laid before Parliament

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66.1 (1) ***Before a regulation is made under section 66, the Minister shall lay the proposed regulation before each House of Parliament.***

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Marginal note: Report by committee

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(2) A proposed regulation that is laid before Parliament ***shall be referred to the appropriate committee of each House, as determined by the rules of that House, and the committee may review the proposed regulation and report its findings to that House.***

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Marginal note: Standing Committee on Health

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(2.1) The committee of the House of Commons referred to in subsection (2) shall be the Standing Committee on Health or, in the event that there is not a Standing Committee on Health, the appropriate committee of the House.

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Marginal note: Making of regulations

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(3) A regulation may not be made before the earliest of

(a) 30 sitting days after the proposed regulation is laid before Parliament,

(b) 160 calendar days after the proposed regulation is laid before Parliament, and

(c) the day after each appropriate committee has reported its findings with respect to the proposed regulation.

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Marginal note: Explanation

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(4) The Minister shall take into account any report of the committee of either House. If a regulation does not incorporate a recommendation of the committee of either House, the Minister shall lay before that House a statement of the reasons for not incorporating it.

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Marginal note: Alteration

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(5) A proposed regulation that has been laid before Parliament need not again be so laid prior to the making of the regulation, whether it has been altered or not.

Exceptions

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66.2 (1) A regulation may be made without being laid before either House of Parliament if the Minister is of the opinion that

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(a) the changes made by the regulation to an existing regulation are so immaterial or insubstantial that section 66.1 should not apply in the circumstances; or

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(b) the regulation must be made immediately in order to protect the health or safety of any person.

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Marginal note: Notice of opinion

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(2) If a regulation is made without being laid before Parliament, the Minister shall lay before each House of Parliament a statement of the Minister's reasons.

Although the "exceptions" clause did provide some wiggle room, forcing Cabinet Ministers to bring proposed changes through the legislative process is actually a good check. It ensures that at least there is open discussion. However, given how quickly these changes passed in Parliament, their effectiveness is questionable.

Government of Canada
Gouvernement du Canada
Canada
Justice Laws Website
Family Law
Criminal Justice
Funding
Canada's System of Justice
Laws
Home ➔ Laws Website Home ➔ Consolidated Acts ➔ S.C. 2005, c. 20 - Table of Contents ➔ S.C. 2005, c. 20
Quarantine Act (S.C. 2005, c. 20)
Full Document: HTML (Accessibility Buttons available) | XML [124 KB] | PDF [336 K
Act current to 2021-05-19 and last amended on 2020-03-17. Previous Versions
Constitutional Documents
Consolidation of Constitution Acts, 1867 to 1982
Consolidation of Constitution Acts, 1867 to 1982 (1990 Report version)
Previous Page
Table of Contents
Emergency Orders
Order prohibiting entry into Canada

62.1 [Repealed, 2019, c. 29, s. 220]

Previous Version

62.2 [Repealed, 2019, c. 29, s. 220]

Previous Version

Proposed regulations to be laid before both Houses of Parliament

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62.1 (1) The Governor in Council ***may not make a regulation under section 62 unless the Minister has first caused the proposed regulation to be laid before both Houses of Parliament.***

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Marginal note: Report by committee

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(2) A proposed regulation that is laid before a House of Parliament is ***deemed to be automatically referred to the appropriate committee of that House***, as determined by the rules of that House, and the committee may conduct inquiries or public hearings with respect to the proposed regulation and report its findings to that House.

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Marginal note: Making of regulations

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(3) The Governor in Council may make a regulation under section 62 only if

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(a) neither House has concurred in any report from its committee respecting the proposed regulation before the end of 30 sitting days or 160 calendar days, whichever is earlier, after the day on which the proposed regulation was laid before that House, in which case the regulation may be made only in the form laid; or

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(b) both Houses have concurred in reports from their committees approving the proposed regulation or a version of it amended to the same effect, in which case the regulation may be made only in the form concurred in.

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Marginal note: Meaning of “sitting day”

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(4) For the purpose of this section, “sitting day” means a day on which the House in question sits.

Exceptions

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62.2 (1) A regulation may be made without being laid before each House of Parliament if the Minister is of the opinion that

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(a) the changes made by the regulation to an existing regulation are so immaterial or insubstantial that section 62.1 should not apply in the circumstances; or

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(b) the regulation must be made immediately in order to protect the health or safeguard the safety of the public.

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Marginal note: Explanation

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(2) If a regulation is made without being laid before each House of Parliament, the Minister shall cause to be laid before each House a statement of the reasons why it was not.

The Quarantine Act also had legitimate safety mechanism stripped out, buried as a seeming afterthought in an omnibus budget Bill.

The “Budget Bill” did pass along Party lines. At the time, the Liberals held a majority, so they needed no support in ramming this through. While the NDP and Conservatives voted against it, these provisions were very unlikely to have contributed, since their was no real debate. Even now, they don’t speak up.

With hindsight, things are much clearer.

(1) https://divergemedia.ca/2021/06/14/no-debate-required-quarantine-act-changed-in-2019-to-allow-for-no-debate-before-its-use/
(2) https://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=10404016
(3) https://parl.ca/DocumentViewer/en/42-1/bill/C-97/third-reading
(4) https://www.ourcommons.ca/DocumentViewer/en/42-1/FINA/meeting-208/evidence
(5) https://archive.is/WXhI8
(6) https://www.ourcommons.ca/Content/Committee/421/FINA/Evidence/EV10460698/FINAEV208-E.PDF
(7) https://openparliament.ca/
(8) https://openparliament.ca/debates/2019/4/10/jenny-kwan-1/
(9) https://openparliament.ca/search/?q=Date%3A%20%222019-04%20to%202019-11%22%20Quarantine
(10) May 6 2019 Quarantine Act Amendment
(11) https://laws-lois.justice.gc.ca/eng/acts/Q-1.1/page-6.html#docCont
(12) https://laws.justice.gc.ca/eng/acts/H-5.67/page-7.html#h-255451

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